

Introduced by Senator Ortiz

February 22, 2002

An act to add Article 1.5 (commencing with Section 104498) to Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, and to add Article 4 (commencing with Section 30132) to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, relating to tobacco.

LEGISLATIVE COUNSEL'S DIGEST

SB 1890, as introduced, Ortiz. Tobacco Use Reduction and Compensation Act of 2002.

Existing law establishes various programs for the prevention of disease and the promotion of health, including programs for the reduction of risks associated with behaviors, and the use of specific products, including tobacco.

Existing law separately provides for the imposition of specified taxes and surtaxes on the sale and distribution of cigarettes and tobacco products.

This bill, the Tobacco Use Reduction and Compensation Act of 2002, would create the Tobacco Use Reduction and Compensation Fund, into which would be deposited the proceeds of surtaxes imposed, at a specified rate, on the sale and distribution of cigarettes and tobacco products, as defined. This bill would require moneys in the fund to be appropriated from the fund for specified purposes including tobacco use and prevention education and research, the provision of medical and preventative health services for low-income and uninsured individuals, and the expansion of medical insurance coverage for the uninsured.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for

passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited as, the
2 Tobacco Use Reduction and Compensation Act of 2002.

3 SEC. 2. The Legislature finds and declares as follows:

4 (a) Tobacco caused health expenditures in California exceed
5 \$8.7 billion every year. Five and one-half billion dollars of this
6 amount is paid by taxpayers. Every household in California pays
7 an additional \$495 in federal and state taxes for smoking related
8 costs. Imposition of additional tobacco taxes will generate
9 long-term cost savings of \$2.3 billion by reducing the
10 consumption of tobacco.

11 (b) California currently operates the most successful tobacco
12 prevention and control program in the world. This program has
13 reduced tobacco consumption by one-half over the past eleven
14 years. Despite this success, smoking remains the principal
15 avoidable cause of death in this state. Smoking kills 41,000
16 Californians every year, causing more deaths than alcohol, AIDS,
17 automobiles, illegal drugs, murders and suicides combined.
18 Almost 500,000 California children 18 years of age or younger are
19 projected to die from smoking related diseases.

20 (c) Raising the tobacco tax will increase the state's ability to
21 reduce tobacco consumption and the related illnesses, injuries, and
22 deaths associated with tobacco use. Increasing tobacco prices,
23 motivating smokers to quit, and providing effective assistance to
24 help smokers stop smoking will dramatically reduce the human
25 and financial costs of tobacco use. The United States Surgeon
26 General has estimated that the tax increase in this act will reduce
27 the number of California child smokers by 125,000 and the
28 number of adult smokers by 104,000.

29 (d) It is the intent of the Legislature that tobacco tax revenues
30 be used to compensate taxpayers for the public costs associated
31 with tobacco use. It is the further intent of the Legislature that the
32 price of tobacco products at least partially reflect the costs
33 associated with use of that product. It is the further intent of the



Legislature that this compensation benefit tobacco users by encouraging and assisting them in quitting tobacco use and providing medical research and treatment for diseases affected by tobacco use. Tobacco use is highest among low-income groups and communities that disproportionately suffer the consequences of tobacco use. It is the intent of the Legislature that this act provide the benefits of assistance, treatment, research, and incentives to the same tobacco consumers who pay the tax and will diminish the existing public tax subsidy for tobacco use.

SEC. 3. Article 1.5 (commencing with Section 104498) is added to Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, to read:

Article 1.5. Tobacco Use Reduction and Compensation

104498. (a) The Tobacco Use Reduction and Compensation Fund is hereby created in the State Treasury. The Tobacco Use Reduction and Compensation Fund shall consist of moneys collected pursuant to the taxes imposed by Section 30132.2 of the Revenue and Taxation Code, and, notwithstanding Section 16305.7 of the Government Code, any interest, dividends, and pecuniary gains, earned on moneys deposited in the fund. Moneys in the fund shall be allocated to the accounts created within the fund in accordance with subdivision (b). All costs to implement this article shall be paid from moneys deposited in the Tobacco Use Reduction and Compensation Fund.

(b) Moneys deposited into the Tobacco Use and Compensation Fund shall, upon appropriation by the Legislature, be allocated as follows:

(1) ____ percent shall be allocated for expenditure according to the following formula:

(A) ____ percent shall be allocated to the Tobacco Education Account, which shall be available to support and expand the tobacco use prevention programs specified in Article 1 (commencing with Section 104350).

(B) ____ percent shall be allocated to the Tobacco Cessation Services Account, which shall be available to support comprehensive tobacco cessation services. This revenue shall be used to acquire and provide services to assist tobacco users to quit tobacco use. It is the intent of the Legislature that these services be made available to members of every health plan in California, to

1 all publicly sponsored patients and to individuals with no medical
2 coverage. It is the intent of the Legislature that state-of-the-art
3 pharmaceutical, counseling, referral, and support services shall be
4 readily available to every tobacco consumer who voluntarily seeks
5 these services.

6 (2) ____ percent shall be allocated to the Scientific Research
7 Account, which shall be available for scientific research to
8 improve the care and treatment of medical conditions caused,
9 affected by, or associated with tobacco use.

10 (3) ____ percent of the fund shall be allocated to provide
11 necessary medical and preventative health services to low-income
12 and uninsured individuals. In implementing this paragraph, the
13 state shall maximize the use of federal funding when available, and
14 consistent with the purpose of this part. Funds under this paragraph
15 shall be available according to the following formula:

16 (A) ____ percent shall be allocated to the Outpatient Services
17 Account, which shall be available to community clinics and
18 outpatient emergency rooms serving a disproportionate share of
19 individuals who are either uninsured or are covered by publicly
20 funded health care programs.

21 (B) ____ percent shall be allocated to the Health Care Coverage
22 Account, which shall be available to expand medical insurance
23 coverage for uninsured families, adults, and children.

24 (c) The moneys allocated to any of the accounts described in
25 this subdivision, that are not encumbered or expended within any
26 fiscal year shall remain in the same account, and be available for
27 expenditure from that account, for the next fiscal year. Moneys
28 allocated to and deposited in each specific account in the fund shall
29 be expended only for the purposes authorized.

30 SEC. 4. Article 4 (commencing with Section 30132) is added
31 to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation
32 Code, to read:

33
34 Article 4. Tobacco Use Reduction and Compensation Fund
35 Account
36

37 30132. The following definitions apply for purposes of this
38 article:

39 (a) “Cigarette” has the same meaning as in Section 30003, as
40 it read on January 1, 1997.

1 (b) “Tobacco products” includes, but is not limited to, all
2 forms of cigars, smoking tobacco, chewing tobacco, snuff, and any
3 other articles or products made of, or containing at least 50 percent
4 tobacco, but does not include cigarettes.

5 30132.1. (a) In addition to the taxes imposed upon the
6 distribution of cigarettes by Section 30101 and Section 30121 and
7 any other taxes in this chapter, there shall be imposed an additional
8 surtax upon every distributor of cigarettes at the rate of thirty-five
9 mills (\$0.035) for each cigarette distributed.

10 (b) In addition to the taxes imposed upon the distribution of
11 tobacco products by Section 30101 and Section 30121, and any
12 other taxes in this chapter, there shall be imposed an additional tax
13 upon every distributor of tobacco products, based on the wholesale
14 cost of these products, at a tax rate, determined annually by the
15 Board of Equalization, which is the equivalent to the tax imposed
16 on cigarettes by subdivision (a).

17 (c) The taxes imposed by this section shall be imposed on every
18 cigarette and on all tobacco products in the possession or under the
19 control of every dealer and distributor on and after 12:01 a.m. on
20 January 1, 2003, pursuant to rules promulgated by the State Board
21 of Equalization.

22 30132.2. All moneys collected pursuant to this article shall be
23 deposited by the Controller in the Tobacco Use Reduction and
24 Compensation Fund, except for any amount appropriated by the
25 Legislature to defray the costs of the State Board of Equalization
26 in implementing this article. No moneys in the Tobacco Use
27 Reduction and Compensation Fund shall be used to supplant state
28 or local General Fund money for any purpose.

29 SEC. 5. If any provision of this act, or part thereof, is for any
30 reason held to be invalid or unconstitutional, the remaining
31 provision shall not be affected, but shall remain in full force and
32 effect, and to this end the provisions of this act are severable.

33 SEC. 6. It is the intent of the Legislature that the provisions
34 of this act shall be liberally construed to effectuate its purposes of
35 diminishing the personal, medical, and financial costs of tobacco
36 use.

